Pleaded Adultery in Bar, but she has begun — To plead Letters without exhibiting them, or endeavouring to prove they are not in being; can the Ct interpose & oblige the Brother to consent?

Dr Collyer... The Qu: is, whether the Facts pleaded are relevant to perempt the Suit; we lay the Elopement, that she seperated from us; it is necessary to lay all the circumstances; she refused, on being required to follow his Condition; Qu: wh: a Woman after has eloped can substitute a Suit of this kind? I remember in the case of the Duke of Beaufort this was made a point, & it was insisted that after the Articles are signed, the Man quits all his right, but the Ct was of opinion, she was always under him; She shd have had recourse to God by Prayers & Tears to turn his heart — It is malum prohibitum, not per se, to have a Wife & Concubine; tho, contrary to Law, it is no false Logic to say a man may have 2 Wives; If he did commit Acts of Adultery during the Cohabitation, our proving they parted Friends after, is a proof of Reconciliation; it is very material to lay, it is not her Suite; that she was under the Custody of her Brother; she was willing enough, when her Brother was absent — It is proper to lay the Letter; we can be relieved by her Answers, & in this Case she must answer; he might move for a Sequestration, else a Woman might go away with a Paramour; I think you shd examine the Woman, wh: willing, a reasonable peremptory Objection; we have moved for an Information for a Conspiracy, agt all these Persons so this is not for Delay; we say she went to France to avoid seeing the Husband & took the Children; he tells you why he cod not go directly to the House; I think they call her a meek spirited Woman, & subject to Fits —

Dr Calvert.... This is a Case of Adultery brought by Mrs B. agt her Husb: who is justified in delay to get Matter in Bar; the Matter of the Petition is extended into a Libel Allon; We dont say the Suit was instituted in another name, but that the Proxy was given under an undue Influence; we are reduced to this Plea, because we cant sue for the Restitution of Conjugal Rites, are under bad Circumstances, cant assert this Right so well, as when in better Circumstances, the Conjugal Commerce is always presumed; the Imprisonment is conducive to shew the Influence of the Brother.

Dr Bettesworth Judge This is a very long Allon, & the Qu: is, wh: it is admissible, the Facts material for the Service of the Person; I never saw an Allon with more Words & fewer Facts; there is a Suit for Adultery, a Libel given &c. This Allon is not in the usual Manner, but to shew that he did not run away, but that she eloped; it is brought with a view, that the Wife may not obtain Sentence — To shew it comes with the Consent of the Wife, a Proxy is given; tho, I cd wish the Allon had been drawn differently, yet I think it may be received; the 1st Art: must be reformed, the Letters sent to him exhibited; 1 word in the 18th Art: struck out, the Exorbitancy of the Bail struck out, the rest admitted....

Feb. 3. 1766

Prerogative
4 Sess: Feb: 18. 1766.

No 14 — Lovegrove v Lycett — on Admission of Lovegrove's Allon

Altham — Dr Clarke, Calvert — Dr Harris, Wynn — Jennour

Dr Clarke.... Our Allon is to repel their charge

1st Art: pleads that the Deed before 13th of Sept: did express a dislike to the said Jn Lycett & declared, he cod make another Will & Exor, for that he had harboured a Snake in his Bosom, & was then in his perfect Senses

2d Art: he declared he had made another Will, to his friend & Servants & appointed H. Lovegrove sole Exor & Residuary

3d Art: That H. L. Apothecary is a Person of good Credit & so reputed —

Dr Calvert read the Allon —

Dr Harris.... We pleaded matter in our Allon to wch this is a Contradiction; we then gave another Allon with a variety of Facts, wch was rejected because no other was given on the other part; now they have given another; the matter of this Allon no doubt is proper, but out of time; they contradict our first Allon given in above a year ago, wch they might then have contradicted; Our Allon was rejected not to protract the Cause & not because irrelevant — if we were in fault they are more so, as so much later than us

Dr Wynne... The matter of this Allon is undoubtedly proper but out of time, it is impossible to lay down an exact time; for parties to give Allons but reasons may be assigned for their pleading these Declarations, I hope you will not suffer the Cause to be protracted

Dr Hay.. Judge... The Allon of Mr Lycett, was not rejected merely because out of Time, but because the Facts appeared examinable upon the former Plea, Mr Lycett had given a special Plea before; he might have appealed; I am certain that it was properly rejected; the Objection taken is that it is out of Time; it is rather late, but the Cause is open; Mr Lovegrove may plead, he gave only a common Condidit, the Facts are relevant

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Prerogative
4 Sess:

No 15 — Thorpe & Robinson Attorneys of Killian v Middleton — Jenner — on admission of Fullers Allon

Fuller — Dr Harris — Dr Wynne

Dr Harris... Edward Green is the Deed, at Antigua his Will was proved; Martha Middleton his Sister obtained Admon here by swearing to an Intestacy; The Allon pleads the Will, that it was proved in the Gov: Ct of that Island, & Copy agrees with the Original Will wch is attested by 3 Witnesses

Dr Wynne... Edw: Green died some time since, Admon was granted to Martha Middleton, upon whom you will observe, there is no reflection. 64 she took Admon in 1765 was cited to shew Cause why it shd not be revoked Admon with Will annexed to ..... Attorneys of the surviving Exors; Sam: Short, Geo. Wm Freeman, Wm Atkinson are Witnesses in the 3d Art: they plead the subscription & Handwriting of the Deed; unless they plead the Witnesses to be dead, they cannot plead & examine to the Handwriting of the Deed

the 4th plead that Sam: Short is dead & in the next his hand writing; they shd specify where the Deed did abroad, when, & when the Witness died, & in what condition of life he was; it may be difficult to find his Character, residence

6th Art: That Wm Freeman since the date & execution of the Will, has left Antigua, & that his nearest Relations & Acquaintance cant tell what is become of him"; they shd say that the Exor & the Attorney of the Exor have enquired; they shd advertize & take other Methods, this is too loose & general; they take no notice of the 3d Witness —

Dr Harris... This Man died in England, she took Admon here; this is the Case of a Person, similar to a Seaman, leading an itinerant life; if we had not pleaded the hand writing of the Testator, we shd have failed in proof a cautious Proctor wd do this, tho, the Witnesses were ever so numerous — they shd plead agt the Mans Character, his Condition, we say he is dead; to be shew he was alive when he signed; if they can, it is for them to prove, he is not dead, we plead the hand writing because the Man cant be found; the Exors say his Friends enquired they ed not enquire except they knew where —

Dr Hay Judge... The Allon pleads a Copy of a Will, & such Copy proved at Antigua may be offered; when they plead one of the Witnesses to be dead, it is not necessary to lay where & when he died, the Exor may not know, they can only plead the Enquiry; pleading Hand writing is always supplatory & may be pleaded at any time; altering the 6th Art. & inserting some words to shew the Exors have enquired & dont know the 3d Witness to be living I admit the Allon ..... admitted

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Consistory of London
4 Sess: Hil: T. 29 Geo. 1766

No 16 — Carpenter & Deuxell agt the Vicar & Parishioners of St Leonards Shoreditch — Jenner — on a Faculty for adding Bells on Wilson's Pew Protest dec'd frivolous & condemned with 6 8. Costs

Cumberlege — Dr Wynne — Dr Harris & Calvert

Dr Harris..... a Citation issued agt Mr Wm Wilson, with Intimation at the Suit of ..... Mr Wilson appears under Protest & objects that the Recital is for Alterations; that neither the Act nor Intimation mention the Chimes being ordered by the Vestry